

FOR THE NINTH CIRCUIT

**FILED**

NOV 30 2005

ALLA AVETISYAN,

Petitioner,

V.

ALBERTO R. GONZALES,  
Attorney General,

Respondent.

No. 03-73079

Agency No. A75-744-506

# MEMORANDUM\*

**CATHY A. CATTERSON, CLERK**  
**U.S. COURT OF APPEALS**

## On Petition for Review of an Order of the Board of Immigration Appeals

Argued and Submitted November 14, 2005  
Pasadena, California

Before: FERNANDEZ and BERZON, Circuit Judges, and PANNER,\*\*  
District Judge.

Alla Avetisyan petitions for review of the Board of Immigration Appeals' denial of her application for asylum and withholding of removal. We deny the

\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* The Honorable Owen M. Panner, Senior United States District Judge for the District of Oregon, sitting by designation.

petition.

The BIA's determination that an alien is "not eligible for asylum must be upheld if supported by reasonable, substantial, and probative evidence on the record considered as a whole." INS v. Elias-Zacarias, 502 U.S. 478, 481, 112 S. Ct. 812, 815, 117 L. Ed. 2d 38 (1992) (internal quotation marks omitted). "It can be reversed only if the evidence presented . . . was such that a reasonable factfinder would have to conclude that the requisite fear of persecution existed." Id. When an alien seeks to overturn the BIA's adverse determination, "he must show that the evidence he presented was so compelling that no reasonable factfinder could fail to find the requisite fear of persecution." Id. at 483–84, 112 S. Ct. at 817; see also Ghaly v. INS, 58 F.3d 1425, 1429 (9th Cir. 1995). Credibility determinations are judged by the same basic standard. See Chun He Li v. Ashcroft, 378 F.3d 959, 962 (9th Cir. 2004); Gui v. INS, 280 F.3d 1217, 1225 (9th Cir. 2002); de Leon-Barrios v. INS, 116 F.3d 391, 393 (9th Cir. 1997). In that area, however, we have added that the determination "must be supported by a specific, cogent reason." de Leon-Barrios, 116 F.3d at 393 (internal quotation marks omitted); see also Chun He Li, 378 F.3d at 962. Moreover, where an asylum claim is involved, an alien must show either past persecution or a well-founded fear of future persecution that is "both subjectively genuine and objectively reasonable." Fisher v. INS, 79 F.3d

955, 960 (9th Cir. 1996) (en banc).

Here Avetisyan's claims fail. The IJ's decision was the final agency determination, and the IJ found that Avetisyan was not credible. We are unable to say that the IJ's decision was not supported by substantial evidence in the record. For example, there were significant differences between the description in her application for asylum of the only allegedly violent incident and her description of the incident at the hearing before the IJ. That incident lay at the very heart of her claim. Certainly, we cannot say that "no reasonable factfinder could fail to find" her credible. Elias-Zacarias, 502 U.S. at 484, 112 S. Ct. at 817; see also Wang v. INS, 352 F.3d 1250, 1259 (9th Cir. 2003) (a single supported ground for an adverse credibility finding is sufficient if it goes to the heart of the claim.).

Petition DENIED.<sup>1</sup>

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<sup>1</sup> Because Avetisyan did not meet the eligibility requirements for asylum, she also did not meet the more stringent standard of withholding of removal either. See Ghaly, 58 F.3d at 1429.